



General Assembly

January Session, 2005

Amendment

LCO No. 6912

SB0035806912SD0

Offered by:

SEN. LEBEAU, 3rd Dist.

To: Subst. Senate Bill No. 358

File No. 477

Cal. No. 362

***"AN ACT CONCERNING THE RETENTION OF JOBS IN
CONNECTICUT."***

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (*Effective October 1, 2005*) The Governor shall review all
4 state contracts in effect on October 1, 2005, and identify any state
5 contracts under which services are being provided outside the United
6 States. Not later than March 1, 2006, the Governor shall submit a report
7 to the joint standing committees of the General Assembly having
8 cognizance of matters relating to economic development and
9 government administration, in accordance with the provisions of
10 section 11-4a of the general statutes. Said report shall list the contracts
11 under which state funds are being paid for services performed outside
12 the United States.

13 Sec. 2. (NEW) (*Effective October 1, 2005*) Each request for proposals
14 issued by a state agency for a contract for the provision of services (1)
15 shall require that each proposer submitting a proposal pursuant to

16 such request disclose the location or locations where the services under
17 the contract and any subcontract under the contract would be
18 performed and whether any such services would be performed outside
19 the United States, and (2) may include criteria for the awarding of the
20 contract that consider the economic impact to Connecticut and
21 residents of the state of the location or locations where services under
22 the contract would be performed and, all other factors in awarding the
23 contract being equal, give a higher rating for services performed in the
24 United States.

25 Sec. 3. (NEW) (*Effective October 1, 2005*) If (1) a state agency awards a
26 contract for services to a proposer based on criteria that include the
27 location of the performance of such services and the proposer's
28 disclosure that services under the contract and any subcontract would
29 be performed in the United States, and (2) the contractor or a
30 subcontractor of the contractor subsequently performs a portion of
31 such services outside the United States, the contractor shall give notice
32 of such performance of such services outside the United States to the
33 contracting agency. If a contractor wilfully or intentionally fails to
34 provide such notice, the executive head of the contracting agency may
35 void the contract, in his or her discretion, upon determining that the
36 work performed outside the United States is a material aspect of the
37 contract.

38 Sec. 4. (NEW) (*Effective October 1, 2005*) (a) As used in this section:

39 (1) "State agency" means a department, division, board, commission
40 or other office in the executive branch of the state government or a
41 quasi-public agency, as defined in section 1-120 of the general statutes;
42 and

43 (2) "Privatization contract" means an agreement between a state
44 agency and a nongovernmental person or entity, in which said person
45 or entity agrees to provide services having a cost of one hundred
46 thousand dollars or more over the term of the contract that are
47 substantially similar to and in lieu of services provided, in whole or

48 part, by employees of such state agency or by employees of another
49 state agency for such state agency. The term "privatization contract"
50 does not include an agreement to provide legal services, litigation
51 support, investment management services or management consulting
52 only.

53 (b) Notwithstanding any provision of the general statutes, each
54 privatization contract to which a state agency is a party shall contain
55 the following provisions: (1) The contractor agrees and warrants that
56 in the performance of the contract such contractor shall make
57 reasonable efforts to originate or provide such services at a location or
58 locations in the United States; and (2) failure by the contractor to
59 comply with the requirement that such contractor shall make
60 reasonable efforts to originate or provide such services at a location or
61 locations in the United States may make the contract voidable, in the
62 discretion of the executive head of such state agency and, if the
63 contract is voided, the contractor shall be liable for damages in an
64 amount equal to the amount paid by the state agency, for the
65 percentage of work originated or provided outside of the United
66 States, plus attorney's fees and costs incurred in enforcing this
67 provision of such contract.

68 Sec. 5. Subsection (c) of section 4a-59 of the general statutes is
69 repealed and the following is substituted in lieu thereof (*Effective*
70 *October 1, 2005*):

71 (c) All open market orders or contracts shall be awarded to (1) the
72 lowest responsible qualified bidder, the qualities of the articles to be
73 supplied, their conformity with the specifications, their suitability to
74 the requirements of the state government and the delivery terms being
75 taken into consideration and, at the discretion of the Commissioner of
76 Administrative Services, life-cycle costs and trade-in or resale value of
77 the articles may be considered where it appears to be in the best
78 interest of the state, (2) the highest scoring bidder in a multiple criteria
79 bid, in accordance with the criteria set forth in the bid solicitation for
80 the contract, or (3) the proposer whose proposal is deemed by the

81 awarding authority to be the most advantageous to the state, in
82 accordance with the criteria set forth in the request for proposals,
83 including price and evaluation factors. Notwithstanding any provision
84 of the general statutes to the contrary, each state agency awarding a
85 contract through competitive negotiation shall include price as an
86 explicit factor in the criteria in the request for proposals and for the
87 contract award. In considering past performance of a bidder for the
88 purpose of determining the "lowest responsible qualified bidder" or
89 the "highest scoring bidder in a multiple criteria bid", the
90 commissioner shall evaluate the skill, ability and integrity of the
91 bidder in terms of the bidder's fulfillment of past contract obligations
92 and the bidder's experience or lack of experience in delivering
93 supplies, materials, equipment or contractual services of the size or
94 amount for which bids have been solicited. In determining the lowest
95 responsible qualified bidder for the purposes of this section, the
96 commissioner may give a price preference of up to ten per cent for (A)
97 the purchase of goods made with recycled materials or the purchase of
98 recyclable or remanufactured products if the commissioner determines
99 that such preference would promote recycling or remanufacturing. As
100 used in this subsection, "recyclable" means able to be collected,
101 separated or otherwise recovered from the solid waste stream for
102 reuse, or for use in the manufacture or assembly of another package or
103 product, by means of a recycling program which is reasonably
104 available to at least seventy-five per cent of the state's population,
105 "remanufactured" means restored to its original function and thereby
106 diverted from the solid waste stream by retaining the bulk of
107 components that have been used at least once and by replacing
108 consumable components and "remanufacturing" means any process by
109 which a product is remanufactured; (B) the purchase of motor vehicles
110 powered by a clean alternative fuel; or (C) the purchase of motor
111 vehicles powered by fuel other than a clean alternative fuel and
112 conversion equipment to convert such motor vehicles allowing the
113 vehicles to be powered by either the exclusive use of clean alternative
114 fuel or dual use of a clean alternative fuel and a fuel other than a clean
115 alternative fuel. As used in this subsection, "clean alternative fuel" shall

116 mean natural gas or electricity when used as a motor vehicle fuel. All
117 other factors being equal, (i) preference shall be given to supplies,
118 materials and equipment produced, assembled or manufactured in the
119 state and services originating and provided in the state, and (ii) if no
120 bidder or proposer would produce, assemble or manufacture supplies,
121 materials and equipment in the state or originate and provide services
122 in the state, preference shall be given to supplies, materials and
123 equipment produced, assembled or manufactured in the United States
124 and services originating and provided in the United States. If any such
125 bidder refuses to accept, within ten days, a contract awarded to such
126 bidder, such contract may be awarded to the next lowest responsible
127 qualified bidder or the next highest scoring bidder in a multiple
128 criteria bid, whichever is applicable, and so on until such contract is
129 awarded and accepted. If any such proposer refuses to accept, within
130 ten days, a contract awarded to such proposer, such contract shall be
131 awarded to the next most advantageous proposer, and so on until the
132 contract is awarded and accepted. There shall be a written evaluation
133 made of each bid. This evaluation shall identify the vendors and their
134 respective costs and prices, document the reason why any vendor is
135 deemed to be nonresponsive and recommend a vendor for award. A
136 contract valued at one million dollars or more shall be awarded to a
137 bidder other than the lowest responsible qualified bidder or the
138 highest scoring bidder in a multiple criteria bid, whichever is
139 applicable, only with written approval signed by the Commissioner of
140 Administrative Services and by the Comptroller. The commissioner
141 shall submit to the joint standing committee of the General Assembly
142 having cognizance of matters relating to government administration,
143 the State Auditors and the Comptroller, an annual report of all awards
144 made pursuant to the provisions of this section.

145 Sec. 6. (NEW) (*Effective October 1, 2005*) There is established within
146 the office of the Attorney General, within available appropriations, an
147 office that shall be responsible for assisting manufacturers and other
148 businesses based in the state in protecting their patents and businesses
149 from unfair and illegal competition from businesses based outside the

150 United States."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005</i>	New section
Sec. 3	<i>October 1, 2005</i>	New section
Sec. 4	<i>October 1, 2005</i>	New section
Sec. 5	<i>October 1, 2005</i>	4a-59(c)
Sec. 6	<i>October 1, 2005</i>	New section